



California Regional Water Quality Control Board

Los Angeles Region

Winston H. Hickox
Secretary for
Environmental
Protection

Over 50 Years Serving Coastal Los Angeles and Ventura Counties
Recipient of the 2001 *Environmental Leadership Award* from Keep California Beautiful



Gray Davis
Governor

320 W. 4th Street, Suite 200, Los Angeles, California 90013
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: <http://www.swrcb.ca.gov/rwqcb4>

Lou Malone
New Millennium Homes
23622 Calabasas Road
Calabasas, CA 91302

CONDITIONAL CERTIFICATION FOR PROPOSED OAKS AT CALABASAS PROJECT (Corps' Project No. 2002-01325-AOA), UNNAMED TRIBUTARY TO MC COY CREEK, CITY OF CALABASAS, LOS ANGELES COUNTY (File No. 02-175)

Dear Mr. Malone:

Regional Board staff has reviewed your request on behalf of New Millennium Homes (the Applicant) for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on December 19, 2002.

I hereby certify that any discharge from the Oaks at Calabasas Project, as proposed and described in Attachment A, if performed in accordance with all applicable water quality objectives, prohibitions, and policies set forth in the *Water Quality Control Plan, Los Angeles Region* (1994), and in accordance with the conditions specified in Attachment B, will comply with the applicable water quality standards and other appropriate requirements, including the provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act.

The Applicant shall be liable civilly for any violations of this certification in accordance with the California Water Code. This certification does not eliminate the Applicant's responsibility to comply with any other applicable laws, requirements and/or permits.

Should you have questions concerning this certification action, please contact Valerie Carrillo, Section 401 Program, at (213) 576-6759.

[Original Signed By:]

[January 6, 2003]

Dennis A. Dickerson
Executive Officer

Date

California Environmental Protection Agency

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption

***For a list of simple ways to reduce demand and cut your energy costs, see the tips at:
<http://www.swrcb.ca.gov/news/echallenge.html>***



Recycled Paper

Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

DISTRIBUTION LIST

Jasch Janowicz
Planning Corporation
P.O. Box 2430
Agoura Hills, CA 91301

Oscar Balaguer
State Water Resources Control Board
Division of Water Quality
P.O. Box 944213
Sacramento, CA 94244-2130

Betty Courtney
California Department of Fish and Game
Streambed Alteration Team
4949 View Ridge Avenue
San Diego, CA 92123

Aaron Allen
U.S. Army Corps of Engineers
Regulatory Branch, Ventura Field Office
2151 Alessandro Drive, Suite 255
Ventura, CA 93001

Steven John
U.S. Environmental Protection Agency
c/o U.S. Army Corps of Engineers
Regulatory Branch, Los Angeles District
P.O. Box 532711
Los Angeles, CA 90053-2325

Tim Vendlinski
Supervisor, Wetlands Regulatory Office (WTR-8)
US EPA, Region 9
75 Hawthorne
San Francisco, CA 94105

Ken Berg
U.S. Fish and Wildlife Service
2730 Loker Avenue West
Carlsbad, CA 92008

ATTACHMENT A

Project Information

File No. **02-175**

1. Applicant: Lou Malone
New Millennium Homes
23622 Calabasas Road
Phone: (818) 223-8291 Fax: (818) 223-8027
2. Applicant's Agent: Jasch Janowicz
Planning Corporation
P.O. Box 2430
Agoura Hills, CA 91301
Phone: (805) 796-6266 Fax: (818) 878-4213
3. Project Name: The Oaks at Calabasas
4. Project Location: City of Calabasas, Los Angeles County
Longitude: 118° 4' 30" W; Latitude: 34° 08' 00" N
5. Type of Project: Residential development
6. Project Description: *Purpose:* The proposed project is for the development of 550 homes on 512 acres at the western terminus of the Calabasas Parkway. Phases One through Three have already been completed. The remaining grading phases (Phases 4A and 5) will cover a gross grading footprint of 310 acres and will result in the construction of 384 residential units.

Description: Phases 4A and 5 will involve the grading of the remaining 329 residential lots and two isolated building pads that will support two water tanks operated by the Las Virgines Municipal Water District. The proposed grading plans for the final build out will require remedial grading in the form of removals, recompaction, and construction of engineered fill slopes. The project activities will impact two ephemeral drainages totaling approximately 0.22 permanent acres.
7. Federal Agency/Permit: U.S. Army Corps of Engineers
NWP No. 39 (Permit No. 2002-01325-AOA)

ATTACHMENT A

Project Information

File No. **02-175**

- | | |
|-------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 8. Other Required
Regulatory Approvals: | California Department of Fish and Game
Streambed Alteration Agreement (Notification No. R5-2002-0309)

Regional Water Quality Control Board
Storm Water Construction Permit |
| 9. California Environmental
Quality Act (CEQA)
Compliance: | The County of Los Angeles approved the project's Final Environmental
Impact Report in January 1991. |
| 10. Receiving Water: | Unnamed tributary to McCoy Canyon Creek, Tributary of Arroyo
Calabasas (Hydrologic Unit No. 405.21) |
| 11. Designated Beneficial
Uses: | MUN, GWR, REC-1, REC-2, WARM, and WILD |
| 12. Impacted Waters of the
United States: | Non-wetland waters (vegetated streambed): 0.22 permanent acres |
| 13. Dredge Volume: | None |
| 14. Related Projects
Implemented/to be
Implemented by the
Applicant: | Phases One, Two and Three of the Oaks at Calabasas Project have
already been completed. |
| 15. Avoidance/ Minimization
Activities: | The Applicant has proposed to implement several Best Management
Practices, including, but not limited to, the following: <ul style="list-style-type: none">• Vehicle equipment cleaning, soil stabilization through seeding and
planting, installation of geotextile mats, silt fencing, and on-site
detention will use to minimized water quality impacts; |

ATTACHMENT A

Project Information

File No. **02-175**

- Grading activities will not primarily be performed during the winter months to help decrease adverse water quality impacts resulting from seasonal precipitation; and
- An Oak Reforestation Plan and a Wetland Restoration Plan will take place within the adjacent 764-acre permanent open space area.

16. Proposed
Compensatory
Mitigation:

The Applicant has proposed to restore 2.50 acres of streambed habitat and also enhance 600 acres of Oak habitat. In addition, the Applicant has dedicated 764.14 acres of open space to the Santa Monica Mountains Conservancy. Within this open space area, there is likely more than 5 acres of waters of the United States.

Native riparian and upland species from local stock and outplanted from containers or cuttings will be used in revegetating impacted areas within the open space areas. Species typically found in similar riparian and upland environments will be used to enhance other nearby riparian communities.

Native habitat within an approximate 140-foot wide buffer (70 feet on either side) of two intermittent/perennial drainages will be enhanced with both riparian and wetland species along accessible areas for a minimum of 500 feet. The following native plant palette is proposed to be planted and irrigated for at least two years:

- Coast Live Oak (*Quercus agrifolia*)
- Valley Oak (*Quercus lobata*)
- Arroyo Willow (*Salix lasiolepis*)
- Black Walnut (*Juglans californica*)
- Milkweed (*Asclepias californica*)
- Deer Grass (*Muhlenbergia rigens*)
- California Sagebrush (*Artemisia californica*)
- Purple Sage (*Salvia leucophylla*)

ATTACHMENT B

Conditions of Certification File No. 01-175

STANDARD CONDITIONS

Pursuant to §3860 of Title 23 of the California Code of Regulations (23 CCR), the following three standard conditions shall apply to this project:

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to §13330 of the California Water Code and Article 6 (commencing with 23 CCR §3867).
2. This certification action is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR Subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. Certification is conditioned upon total payment of any fee required pursuant to 23 CCR Chapter 28 and owed by the Applicant.

ADDITIONAL CONDITIONS

Pursuant to 23 CCR §3859(a), the Applicant shall comply with the following additional conditions:

1. The Applicant shall submit to this Regional Board copies of any other final permits and agreements required for this project, including, but not limited to, the U.S. Army Corps of Engineers' Section 404 Permit and the California Department of Fish and Game's Streambed Alteration Agreement. **These documents shall be submitted prior to any discharge to waters of the state.**
2. Fueling, lubrication, maintenance, operation, and storage of vehicles and equipment shall not result in a discharge or a threatened discharge to waters of the state. At no time shall the Applicant use any vehicle or equipment which leaks any substance that may impact water quality. Staging and storage areas for vehicles and equipment shall be located outside of waters of the state.
3. No construction material, spoils, debris, or any other substances associated with this project that may adversely impact water quality standards, shall be located in a manner which may result in a discharge or a threatened discharge to waters of the state.
4. The Applicant shall not conduct any construction activities within waters of the state during a rainfall event. The Applicant shall maintain **a five-day (5-day) clear weather forecast** before conducting any operations within waters of the state.

ATTACHMENT B

Conditions of Certification

File No. 01-175

5. No activities shall involve wet excavations (i.e., no excavations shall occur below the seasonal high water table). A minimum **5-foot** buffer zone shall be maintained above the existing groundwater level. If construction or groundwater dewatering is proposed or anticipated, the Applicant shall file a **Report of Waste Discharge** to this Regional Board and obtain any necessary NPDES permits/Waste Discharge Requirements prior to discharging waste. Sufficient time should be allowed to obtain any such permits (generally 180 days). If groundwater is encountered without the benefit of appropriate permits, the Applicant shall cease all activities in the areas where groundwater is present, file a Report of Waste Discharge to this Regional Board, and obtain any necessary permits prior to discharging waste.
6. All surface waters, including ponded waters, shall be diverted away from areas undergoing grading, construction, excavation, vegetation removal, and/or any other activity which may result in a discharge to the receiving water. If surface water diversions are anticipated, the Applicant shall develop and submit a **Surface Water Diversion Plan** to this Regional Board. The plan shall include the proposed method and duration of diversion activities, erosion and sediment controls, and a map or drawing indicating the locations of diversion and discharge points. The plan shall be submitted prior to any surface water diversions. If surface flows are present, then upstream and downstream monitoring for pH, temperature, dissolved oxygen, turbidity, and total suspended solids shall be implemented. These constituents shall be monitored on a **daily** basis during the first week of diversion activities, and then on a **weekly** basis, thereafter, until the in-stream work is complete. Results of the analyses shall be submitted to this Regional Board by the **15th** day of each subsequent sampling month. A map or drawing indicating the locations of sampling points shall be included with each submittal. Diversion activities shall not result in the degradation of beneficial uses or exceedance of water quality objectives of the receiving waters. Any such violations may result in corrective and/or enforcement actions, including increased monitoring and sample collection.
7. The Applicant shall restore all areas of TEMPORARY IMPACTS to waters of the United States and all other areas of temporary disturbance which could result in a discharge or a threatened discharge to waters of the state. Restoration shall include grading of disturbed areas to pre-project contours and revegetation with native species to the extent feasible. The Applicant shall implement appropriate Best Management Practices to control erosion and runoff from areas associated with this project.
8. The Applicant shall provide COMPENSATORY MITIGATION to offset the proposed permanent impacts to **0.22 acres** of vegetation within waters of the United States by creating or restoring riparian habitat at a minimum 3:1 area replacement ratio. The Applicant has proposed to restore approximately 2.50 acres. As an alternative, the Applicant may provide adequate funding to a third party organization for the creation or restoration of riparian habitat within waters of the United States. The mitigation site shall be located within the same watershed to the extent feasible.

ATTACHMENT B

Conditions of Certification File No. 01-175

unless otherwise approved by this Regional Board. The location of the mitigation site shall be clearly identified on a map of suitable quality and shall be defined by latitude and longitude. This information shall be submitted to this Regional Board for approval prior to any disturbance within waters of the United States and shall include copies of any agreements made between the Applicant and a third party organization regarding compensatory mitigation efforts.

9. All open space and mitigation areas shall be placed within a conservation easement to ensure preservation in perpetuity. Documentation of proper easement placement shall be submitted to this Regional Board prior to conducting any operations within waters of the United States.
10. The Applicant shall submit to this Regional Board **Annual Monitoring Reports** documenting the success of all restoration and mitigation efforts, including, percent survival by plant species and percent cover. The reports shall include discussion of any monitoring activities and exotic plant control efforts. Representative photographs from designated stations shall be included in the reports. The reports shall be submitted by **January 1st** of each year for a period of **five (5) years** after planting.
11. All communications regarding this project and submitted to this Regional Board shall identify the Project File Number **02-175**. Submittals shall be sent to the attention of the Nonpoint Source Unit.
12. The Applicant shall have copies of this certification and all other regulatory approvals on site at all times, and all contractors employed by the Applicant shall be made aware of the conditions of this certification.
13. Any modifications of the proposed project may require submittal of a new Clean Water Act Section 401 Water Quality Certification application and appropriate filing fee.
14. The project shall comply with the local regulations associated with the Regional Board's **Municipal Stormwater Permit** issued to Los Angeles County and co-permittees under NPDES No. CAS004001 and Waste Discharge Requirements Order No. 01-182. This includes the Standard Urban Storm Water Mitigation Plan (SUSMP), the Storm Water Construction General Permit and all related implementing local ordinances and regulations for the control of stormwater pollution from new development and redevelopment.

ATTACHMENT B

Conditions of Certification File No. 01-175

15. *Enforcement:*

- (a) In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification.
- (b) In response to a suspected violation of any condition of this certification, the State Water Resources Control Board (SWRCB) may require the holder of any permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the SWRCB deems appropriate, provided that the burden, including costs, of the reports shall be a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
- (c) In response to any violation of the conditions of this certification, the SWRCB may add to or modify the conditions of this certification as appropriate to ensure compliance.